IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 12TH SEPTEMBER 2007 / 21ST BHADRA 1929

Crl.MC.No. 2861 of 2007()

CC.411/2006 of JUDL.MAGISTRATE OF FIRST CLASS, MANANTHAVADY
CRIME NO.252/06 OF MANANTHAVADY POLICE STATION

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PETITIONER: IST ACCUSED

MUHAMMEDALI, S/O.ABOOBACKER, AGED 24
YEARS, CHERAMALA HOUSE, KANIYAMBATTA,
MADAKKIMALA, WAYANAD DISTRICT.

BY ADV. SRI.SUNIL V.MOHAMMED

RESPONDENTS: STATE

THE STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2861 of 2007

Dated this the 12th day of September, 2007

O R D E R

The petitioner faces indictment as the 1st accused in a prosecution for offences punishable, inter alia, under Sections 406 & 420 I.P.C. At the crime stage, the petitioner was enlarged on bail, it is submitted. Investigation is complete. Final report has been filed. Cognizance has been taken. But the petitioner did not allegedly receive any notice from the court after the cognizance was taken. The learned Magistrate has initiated coercive processes against the petitioner. The petitioner finds a warrant of arrest issued by the learned Magistrate chasing him.

2. According to the petitioner, he is innocent. His absence earlier was not wilful. He is willing to surrender before the learned Magistrate and claim regular bail. But he apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. Hence it is prayed that appropriate directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances

under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-